

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MARIO RIOS, on her behalf and  
on behalf of her minor son, D.R.,

Plaintiffs,

v.

CV 08-1213 JCH/GBW

DONA ANA COUNTY, et al

Defendants.

ORDER DENYING MOTION TO COMPEL

THIS MATTER is before the Court on Plaintiff's Motion to Compel and the responsive pleadings. *Doc. 92, 97, 109*. On July 23, 2010, the Court held a hearing on the Motion. *Doc. 116*. During the time allotted for briefing on the Motion, the parties refined their dispute to a very small set of documents. At the hearing, both parties<sup>1</sup> confirmed that the universe of disputed documents was limited to the six items comprised of eleven pages described in Exhibit 5 (RIOS142, RIOS143, RIOS144-146, RIOS147-148, RIOS155, RIOS 156-158) to Defendant's Response. *Doc. 97, Ex. 5; Doc. 116*. At the hearing, Defendant agreed to deliver these documents to the Court for an *in camera* review to consider the claimed

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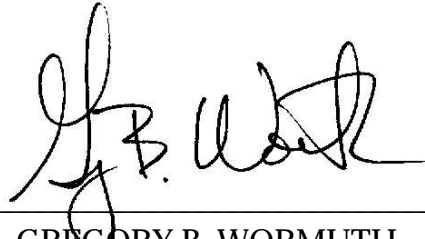
<sup>1</sup> While the County defendants were represented at the hearing, the document dispute is between the Plaintiff and Defendant Third Judicial District Attorney's Office. Therefore, unless otherwise indicated, references to "Defendant" are to Defendant Third Judicial District Attorney's Office.

privileges. *Doc. 116*. On July 27, 2010, Defendant's counsel delivered the documents to the Court. Accompanying the documents was a letter from counsel in which he stipulated to the disclosure of the first four items (RIOS142, RIOS143, RIOS144-146, RIOS147-148) listed in Exhibit 5. The only exception to the stipulated disclosure is the redaction of one section of five words and another section of eight words on document RIOS145. Therefore, the motion to compel RIOS142, RIOS143, RIOS144-146 (with redactions to RIOS145), RIOS147-148 will be denied as moot. My *in camera* review will focus only on the redactions to RIOS145, and the last two items (RIOS155, RIOS156-158) on Exhibit 5.

Having reviewed the proposed redactions on RIOS145, I find that the words redacted are utterly irrelevant to the issues in the case and could lead to the embarrassment of a party or person. *See Fed. R. Civ. P. 26(c)(1)*. Therefore, I will not compel the disclosure of an unredacted RIOS145.

Having reviewed the last two items (RIOS155, RIOS156-158) on Exhibit 5, I find that these documents are utterly irrelevant to the issues in the case. Moreover, these documents are communications in which Defendant was seeking legal services and assistance in the instant case. As such, they are privileged. *See Town of Norfolk v. U.S. Army Corps of Engineers*, 968 F.2d 1438, 1458 (1st Cir. 1992) (communications "for the purpose of securing a legal opinion, legal services or assistance in a legal proceeding" are privileged). Therefore, I will not compel the disclosure of these items (RIOS 155, RIOS156-158).

IT IS HEREBY ORDERED that the Motion to Compel is DENIED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

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GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE